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Jan Klier

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HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER

PESIN, BORIS M

ART UNIT

PAPER NUMBER

2174

NOTIFICATION DATE

DELIVERY MODE

07/17/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JERRY.SHORMA@HP.COM
ipa.mail@hp.com
jessica.l.fusek@hp.com

Office Action Summary	Application No. 10/723,037	Applicant(s) KLIER, JAN	
	Examiner BORIS PESIN	Art Unit 2174	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/13/2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14, 17, 18, 20, 21 and 23-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14, 17, 18, 20, 21 and 23-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

This communication is responsive to the amendment filed 4/13/2009.

Claims 1-14, 17, 18, 20, 21, and 23-26 are pending in this application. Claims 1, 11, and 18 are independent claims. In the amendment filed 4/13/2009, Claims 1 and 13 were amended and claim 26 was added as new. This action is made Final.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-5, 7-10, 13, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maffezzoni et al. (6532535) in view of HD_Speed (SteelBytes.com) further in view of Erik Riedel, Active Disks-Remote Execution for NASD (Riedel).

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Re claim 1, Maffezzoni et al. discloses an automated storage system comprising: a data access drive (hard drive or a removable drive, see column 3 lines 45-47 according to the numbering in the middle for example) operable to read and write computer-readable data on storage media (primary and secondary storage device, see abstract for example); a drive controller (controller see column 17 lines 1-2 for example) provided at the data access drive; computer-readable program code (intelligent Genesis backup protection system with SpareTire for example, see figures 6B and 14, column 41 lines 60-64) provided in computer-readable storage (see column 14 lines 37-41 for example), the computer-readable program code for generating drive information and user interface rendering data (see figure 6B for example); and a user interface module (see figure 6B, column 41 lines 60-64 using SpareTire for example) to output the drive information via a user interface in accordance with the user interface rendering data (see figure 6B for example).

Maffezzoni does not specifically providing computer-readable program code at the data access drive which provides drive information that comprises a status of the data access drive and an operating speed of the data access drive. HD_Speed teaches a GUI application that a user can install on a drive which will display drive information that comprises a status of the data access drive and an operating speed of the data access drive (See Page 1). It would have been obvious to one of ordinary skill at the time of the invention to modify Maffezzoni with the teachings of HD_Speed and include drive information that comprises a status of the data access drive and an operating speed of the data access drive with the motivation to provide the user with better

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benchmark of their computer's capabilities and to help the user diagnose potential problems with a disk drive.

Maffezzoni-HD_Speed does not specifically teach that the computer-readable program code is executable by the drive controller. Riedel teaches that computer-readable program code can be executable by the drive controller. (See Pages 1 and 2) It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Maffezzoni-HD_Speed with the teachings of Riedel and include the ability to execute code right on the drive controller with the motivation to improve application performance.

Re claim 2, Maffezzoni et al. discloses a system, wherein the computer-readable program code includes a render engine (SpareTire for example) to generate the user interface rendering data (see figure 5A and 6B for example).

Re claim 3, Maffezzoni et al. discloses a system, wherein the computer-readable program code includes a state machine (FootPrint for example) to retrieve the drive information.

Re claim 4, Maffezzoni et al. discloses a method as set forth in claim 1 above. Maffezzoni et al. does not explicitly disclose wherein the drive controller retrieves updated drive information if a data access drive changes state. It would have been an obvious matter to update displayed drive information, when the drive state changes, since such a modification would have involved the mere application of a known technique to a piece of prior art. Where a claimed improvement on a device or apparatus is no more than "the simple substitution of one known element for another or

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the mere application of a known technique to a piece of prior art ready for improvement," the claim is unpatentable under 35 U.S.C. 103(a). Ex Parte Smith, 83 USPQ.2d 1509, 1518-19 (BPAI, 2007) (citing KSR v. Teleflex, 127 S.Ct. 1727, 1740, 82 USPQ2d 1385, 1396 (2007)). Accordingly Applicant claims a combination that only unites old elements with no change in the respective functions of those old elements, and the combination of those elements yields predictable results; absent evidence that the modifications necessary to effect the combination of elements is uniquely challenging or difficult for one of ordinary skill in the art, the claim is unpatentable as obvious under 35 U.S.C. 103(a). Ex Parte Smith, 83 USPQ.2d at 1518-19 (BPAI, 2007) (citing KSR, 127 S.Ct. at 1740, 82 USPQ2d at 1396. Accordingly, since the applicant[s] have submitted no persuasive evidence that the combination of the above elements is uniquely challenging or difficult for one of ordinary skill in the art, the claim is unpatentable as obvious under 35 U.S.C. 103(a) because it is no more than the predictable use of prior art elements according to their established functions resulting in the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for improvement.

Re claim 5, Maffezzoni et al. discloses a system, further comprising a communication path (inherent, see figure 5A using FootPrint for example) established between the drive controller and the user interface module, the drive information and the user interface rendering data provided to the user interface module via the communication path (provided via FootPrint and SpareTire for example).

Re claim 7, Maffezzoni et al. discloses a method as set forth in claim 1 above. Maffezzoni et al. does not explicitly disclose a communication path established between the drive controller and a system controller and between the system controller and the user interface module, the drive information and the user interface rendering data provided to the user interface module via the communication path. It would have been an obvious matter to establish a communication path between the drive controller and a system controller and between the system controller and the user interface module, the drive information and the user interface rendering data provided to the user interface module via the communication path, since such a modification would have involved the mere application of a known techniques such as establishing communication paths to a piece of prior art and also since establishing of communication paths would be necessary for the systems to function together. Where a claimed improvement on a device or apparatus is no more than "the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for improvement," the claim is unpatentable under 35 U.S.C. 103(a). Ex Parte Smith, 83 USPQ.2d 1509, 1518-19 (BPAI, 2007) (citing KSR v. Teleflex, 127 S.Ct. 1727, 1740, 82 USPQ2d 1385, 1396 (2007)). Accordingly Applicant claims a combination that only unites old elements with no change in the respective functions of those old elements, and the combination of those elements yields predictable results; absent evidence that the modifications necessary to effect the combination of elements is uniquely challenging or difficult for one of ordinary skill in the art, the claim is unpatentable as obvious under 35 U.S.C. 103(a). Ex Parte Smith, 83 USPQ.2d at 1518-19 (BPAI,

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2007) (citing KSR, 127 S.Ct. at 1740, 82 USPQ2d at 1396. Accordingly, since the applicant[s] have submitted no persuasive evidence that the combination of the above elements is uniquely challenging or difficult for one of ordinary skill in the art, the claim is unpatentable as obvious under 35 U.S.C. 103(a) because it is no more than the predictable use of prior art elements according to their established functions resulting in the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for improvement.

Re claim 8, Maffezzoni et al. discloses a system, wherein the drive information and the user interface rendering data is displayed in a graphical user interface (see figure 6B for example).

Re claim 9, Maffezzoni et al. discloses a method as set forth in claim 1 above. Maffezzoni et al. does not explicitly disclose wherein the drive controller retrieves updated drive information based at least in part on input from the user interface module. It would have been an obvious matter to have wherein the drive controller retrieves updated drive information based at least in part on input from the user interface module, since such a modification would have involved the mere application of a known techniques such as updating information to a piece of prior art and also since Maffezzoni et al. teaches of user selection (see column 41 line 65 for example). Where a claimed improvement on a device or apparatus is no more than "the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for improvement," the claim is unpatentable under

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35 U.S.C. 103(a). Ex Parte Smith, 83 USPQ.2d 1509, 1518-19 (BPAI, 2007) (citing KSR v. Teleflex, 127 S.Ct. 1727, 1740, 82 USPQ2d 1385, 1396 (2007)). Accordingly Applicant claims a combination that only unites old elements with no change in the respective functions of those old elements, and the combination of those elements yields predictable results; absent evidence that the modifications necessary to effect the combination of elements is uniquely challenging or difficult for one of ordinary skill in the art, the claim is unpatentable as obvious under 35 U.S.C. 103(a). Ex Parte Smith, 83 USPQ.2d at 1518-19 (BPAI, 2007) (citing KSR, 127 S.Ct. at 1740, 82 USPQ2d at 1396. Accordingly, since the applicant[s] have submitted no persuasive evidence that the combination of the above elements is uniquely challenging or difficult for one of ordinary skill in the art, the claim is unpatentable as obvious under 35 U.S.C. 103(a) because it is no more than the predictable use of prior art elements according to their established functions resulting in the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for improvement.

Re claim 10, Maffezzoni et al. discloses a method as set forth in claim 1 above. Maffezzoni et al. does not explicitly disclose wherein the drive controller receives control instructions from the user interface module. It would have been an obvious matter to have wherein the drive controller receives control instructions from the user interface module, since such a interaction would have been obvious in order to relay the instruction for execution (see column 41 lines 60-65 for example). Where a claimed improvement on a device or apparatus is no more than "the simple substitution of one known element for another or the mere application of a known technique to a piece of

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prior art ready for improvement," the claim is unpatentable under 35 U.S.C. 103(a). Ex Parte Smith, 83 USPQ.2d 1509, 1518-19 (BPAI, 2007) (citing KSR v. Teleflex, 127 S.Ct. 1727, 1740, 82 USPQ2d 1385, 1396 (2007)). Accordingly Applicant claims a combination that only unites old elements with no change in the respective functions of those old elements, and the combination of those elements yields predictable results; absent evidence that the modifications necessary to effect the combination of elements is uniquely challenging or difficult for one of ordinary skill in the art, the claim is unpatentable as obvious under 35 U.S.C. 103(a). Ex Parte Smith, 83 USPQ.2d at 1518-19 (BPAI, 2007) (citing KSR, 127 S.Ct. at 1740, 82 USPQ2d at 1396. Accordingly, since the applicant[s] have submitted no persuasive evidence that the combination of the above elements is uniquely challenging or difficult for one of ordinary skill in the art, the claim is unpatentable as obvious under 35 U.S.C. 103(a) because it is no more than the predictable use of prior art elements according to their established functions resulting in the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for improvement.

Re claim 13, Maffezzoni et al. discloses a method of claim 11 wherein receiving the graphical user interface rendering data comprises receiving the graphical user interface rendering data from a render engine executed by the drive controller at the data access drive (See Riedel Pages 1 and 2).

Claim 26 is similar in scope to claim 13; therefore, it is rejected under similar rationale.

Claims 11, 12, 14, 17-18, 20-21 and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maffezzoni et al. (6532535) in view of HD_Speed (SteelBytes.com).

Re claim 11, Maffezzoni et al. discloses a method comprising: receiving drive information and graphical user interface rendering data (see figure 6B for example) generated by a drive controller (controller, see column 17 lines 1-2 for example) at a data access drive of a storage system (primary and secondary storage device, see abstract for example);

outputting the drive information in a graphical user interface in accordance with the graphical user interface rendering data (see abstract and figure 6B for example).

Maffezzoni et al. does not explicitly disclose receiving an indication of activation of a button in the graphical user interface, wherein activation of the button is a request for the drive information, and wherein receiving the drive information and graphical user interface rendering data is in response to the indication of activation of the button.

Maffezzoni et al. teaches of receiving an indication of activation of a link in the graphical user interface (user is provided with more information, see column 42 lines 1-3 for example), wherein activation of the link is a request for the drive information, and wherein receiving the drive information and graphical user interface rendering data is in response to the indication of activation of the link (see column 41 lines 64-column 42 line 3 for example). It would have been an obvious matter to have a button be provided as a link, since such a modification would have been obvious. Where a claimed

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improvement on a device or apparatus is no more than "the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for improvement," the claim is unpatentable under 35 U.S.C. 103(a). Ex Parte Smith, 83 USPQ.2d 1509, 1518-19 (BPAI, 2007) (citing KSR v. Teleflex, 127 S.Ct. 1727, 1740, 82 USPQ2d 1385, 1396 (2007)). Accordingly Applicant claims a combination that only unites old elements with no change in the respective functions of those old elements, and the combination of those elements yields predictable results; absent evidence that the modifications necessary to effect the combination of elements is uniquely challenging or difficult for one of ordinary skill in the art, the claim is unpatentable as obvious under 35 U.S.C. 103(a). Ex Parte Smith, 83 USPQ.2d at 1518-19 (BPAI, 2007) (citing KSR, 127 S.Ct. at 1740, 82 USPQ2d at 1396. Accordingly, since the applicant[s] have submitted no persuasive evidence that the combination of the above elements is uniquely challenging or difficult for one of ordinary skill in the art, the claim is unpatentable as obvious under 35 U.S.C. 103(a) because it is no more than the predictable use of prior art elements according to their established functions resulting in the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for improvement.

Maffezzoni does not specifically providing computer-readable program code at the data access drive which provides drive information that comprises a status of the data access drive and an operating speed of the data access drive. HD_Speed teaches a GUI application that a user can install on a drive which will display drive information that comprises a status of the data access drive and an operating speed of the data

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access drive (See Page 1). It would have been obvious to one of ordinary skill at the time of the invention to modify Maffezzoni with the teachings of HD_Speed and include drive information that comprises a status of the data access drive and an operating speed of the data access drive with the motivation to provide the user with better benchmark of their computer's capabilities and to help the user diagnose potential problems with a disk drive.

Re claim 12, Maffezzoni et al. substantially discloses a method as set forth in claim 11 above. Maffezzoni et al. does not explicitly disclose wherein receiving the drive information and the graphical user interface rendering data is via a system controller. It would have been an obvious matter to have wherein receiving the drive information and the graphical user interface rendering data is via a system controller, since such a interaction would have been obvious in order to relay the instruction for execution (see column 41 lines 60-65 for example). Where a claimed improvement on a device or apparatus is no more than "the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for improvement," the claim is unpatentable under 35 U.S.C. 103(a). Ex Parte Smith, 83 USPQ.2d 1509, 1518-19 (BPAI, 2007) (citing KSR v. Teleflex, 127 S.Ct. 1727, 1740, 82 USPQ2d 1385, 1396 (2007)). Accordingly Applicant claims a combination that only unites old elements with no change in the respective functions of those old elements, and the combination of those elements yields predictable results; absent evidence that the modifications necessary to effect the combination of elements is uniquely

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challenging or difficult for one of ordinary skill in the art, the claim is unpatentable as obvious under 35 U.S.C. 103(a). Ex Parte Smith, 83 USPQ.2d at 1518-19 (BPAI, 2007) (citing KSR, 127 S.Ct. at 1740, 82 USPQ2d at 1396. Accordingly, since the applicant[s] have submitted no persuasive evidence that the combination of the above elements is uniquely challenging or difficult for one of ordinary skill in the art, the claim is unpatentable as obvious under 35 U.S.C. 103(a) because it is no more than the predictable use of prior art elements according to their established functions resulting in the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for improvement.

Re claim 14, note that Maffezzoni et al. discloses a method, wherein outputting the drive information comprises displaying the drive information in the graphical user interface in accordance with the graphical user interface rendering data (see figure 6B and columns 41 lines 60-65 for example).

Re claim 17, Maffezzoni et al. substantially discloses a method as set forth in claim 11 above. Maffezzoni et al. does not explicitly disclose receiving a second indication of activation of the button in the graphical user interface; and

outputting updated drive information in the graphical user interface in response to receiving the second indication. Maffezzoni et al. teaches of receiving a second indication of activation of the link in the graphical user interface; and

outputting updated drive information in the graphical user interface in response to receiving the second indication (see column 41 lines 64-column 42 line 3, first link can be "Attempt Repair" and second link can be "Details of System Failure" for example). It

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would have been an obvious matter to have a button be provided as a link, since such a modification would have been obvious. Where a claimed improvement on a device or apparatus is no more than "the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for improvement," the claim is unpatentable under 35 U.S.C. 103(a). Ex Parte Smith, 83 USPQ.2d 1509, 1518-19 (BPAI, 2007) (citing KSR v. Teleflex, 127 S.Ct. 1727, 1740, 82 USPQ2d 1385, 1396 (2007)). Accordingly Applicant claims a combination that only unites old elements with no change in the respective functions of those old elements, and the combination of those elements yields predictable results; absent evidence that the modifications necessary to effect the combination of elements is uniquely challenging or difficult for one of ordinary skill in the art, the claim is unpatentable as obvious under 35 U.S.C. 103(a). Ex Parte Smith, 83 USPQ.2d at 1518-19 (BPAI, 2007) (citing KSR, 127 S.Ct. at 1740, 82 USPQ2d at 1396. Accordingly, since the applicant[s] have submitted no persuasive evidence that the combination of the above elements is uniquely challenging or difficult for one of ordinary skill in the art, the claim is unpatentable as obvious under 35 U.S.C. 103(a) because it is no more than the predictable use of prior art elements according to their established functions resulting in the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for improvement.

Re claim 18, Maffezzoni et al. discloses, In an automated storage system having a graphical user interface including a display and a graphical user interface selection device, a method of providing and selecting from the display comprising:

Receiving activation of a link in the graphical user interface, wherein activation of the link is a request for drive information of a data access device in the automated storage system (see figure 6B and columns 41 lines 64 to column 42 line 3 for example); and displaying the drive information in an application window in the graphical user interface in accordance with the graphical user interface rendering data (see figure 6B).

Maffezzoni et al. does not explicitly disclose a button providing activation to the link; and sending an indication regarding the activation of the link to a drive controller at the data access drive (abstract and via bus to the controller for example); and

Responsive to the indication regarding the activation of the button, receiving drive information and graphical user interface rendering data from the drive controller.

It would have been an obvious matter to have a button be provided as a link, since such a modification would have been obvious. And it would also have been obvious to send indication regarding the activation of the link to a drive controller, in order to execute the selection. Where a claimed improvement on a device or apparatus is no more than "the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for improvement," the claim is unpatentable under 35 U.S.C. 103(a). Ex Parte Smith, 83 USPQ.2d 1509, 1518-19 (BPAI, 2007) (citing KSR v. Teleflex, 127 S.Ct. 1727, 1740, 82 USPQ2d 1385, 1396 (2007)). Accordingly Applicant claims a combination that only unites old elements with no change in the respective functions of those old elements, and the combination of those elements yields predictable results; absent evidence that the modifications

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necessary to effect the combination of elements is uniquely challenging or difficult for one of ordinary skill in the art, the claim is unpatentable as obvious under 35 U.S.C. 103(a). Ex Parte Smith, 83 USPQ.2d at 1518-19 (BPAI, 2007) (citing KSR, 127 S.Ct. at 1740, 82 USPQ2d at 1396. Accordingly, since the applicant[s] have submitted no persuasive evidence that the combination of the above elements is uniquely challenging or difficult for one of ordinary skill in the art, the claim is unpatentable as obvious under 35 U.S.C. 103(a) because it is no more than the predictable use of prior art elements according to their established functions resulting in the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for improvement.

Maffezzoni does not specifically providing computer-readable program code at the data access drive which provides drive information that comprises a status of the data access drive and an operating speed of the data access drive. HD_Speed teaches a GUI application that a user can install on a drive which will display drive information that comprises a status of the data access drive and an operating speed of the data access drive (See Page 1). It would have been obvious to one of ordinary skill at the time of the invention to modify Maffezzoni with the teachings of HD_Speed and include drive information that comprises a status of the data access drive and an operating speed of the data access drive with the motivation to provide the user with better benchmark of their computer's capabilities and to help the user diagnose potential problems with a disk drive.

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Re claim 20, Maffezzoni et al. substantially discloses a method, further comprising: Receiving updated drive information that represents a state change of the data access drive, and corresponding updated graphical user interface rendering data and

displaying the updated drive information in the application window in accordance with the updated graphical user interface rendering data (see figure 6B and columns 41 lines 64-column 42 line 3 for example).

Maffezzoni et al. does not explicitly disclose receiving a second activation of the button;

Sending a second indication regarding the second activation of the button to the drive controller; and receiving updated information from the drive controller. Maffezzoni et al. teaches of receiving a second indication of activation of the link (see column 41 lines 64-column 42 line 3, first link can be "Attempt Repair" and second link can be "Details of System Failure" for example). It would have been an obvious matter to have a button be provided as a link, since such a modification would have been obvious. And it would also have been obvious to receiving information on drive updates from a drive controller, in order to execute the selection. Where a claimed improvement on a device or apparatus is no more than "the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for improvement," the claim is unpatentable under 35 U.S.C. 103(a). Ex Parte Smith, 83 USPQ.2d 1509, 1518-19 (BPAI, 2007) (citing KSR v. Teleflex, 127 S.Ct. 1727, 1740, 82 USPQ2d 1385, 1396 (2007)). Accordingly Applicant claims a combination that only

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unites old elements with no change in the respective functions of those old elements, and the combination of those elements yields predictable results; absent evidence that the modifications necessary to effect the combination of elements is uniquely challenging or difficult for one of ordinary skill in the art, the claim is unpatentable as obvious under 35 U.S.C. 103(a). *Ex Parte Smith*, 83 USPQ.2d at 1518-19 (BPAI, 2007) (citing *KSR*, 127 S.Ct. at 1740, 82 USPQ2d at 1396. Accordingly, since the applicant[s] have submitted no persuasive evidence that the combination of the above elements is uniquely challenging or difficult for one of ordinary skill in the art, the claim is unpatentable as obvious under 35 U.S.C. 103(a) because it is no more than the predictable use of prior art elements according to their established functions resulting in the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for improvement.

Re claim 21, Maffezzoni et al. discloses wherein the user interface rendering data enables drawing of a graphical image in the user interface (see figure 6B for example).

Re claim 24, Maffezzoni et al. discloses a system wherein the user interface comprises a graphical user interface, wherein the user interface rendering data comprises a graphical user interface rendering data, and wherein the user interface module displays the drive information in a window of the graphical user interface in accordance with the graphical user interface data (see figure 6B for example).

Re claim 25, Maffezzoni et al. substantially discloses a method as set forth in claim 11 above. Maffezzoni et al. does not explicitly disclose sending output regarding

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activation of the button to the drive controller, wherein the drive information and graphical user interface rendering data is generated by the drive controller in response to the output. Maffezzoni et al. teaches of sending output regarding activation of the link, wherein the drive information and graphical user interface rendering data is generated in response to the output (see figure 6B and column 41 lines 64-column 42 line 3 for example). It would have been an obvious matter to have a button be provided as a link, since such a modification would have been obvious. And it would also have been obvious to receiving and sending information on drive updates from a drive controller, in order to execute the selection and display updated information. Where a claimed improvement on a device or apparatus is no more than "the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for improvement," the claim is unpatentable under 35 U.S.C. 103(a). *Ex Parte Smith*, 83 USPQ.2d 1509, 1518-19 (BPAI, 2007) (citing *KSR v. Teleflex*, 127 S.Ct. 1727, 1740, 82 USPQ2d 1385, 1396 (2007)). Accordingly Applicant claims a combination that only unites old elements with no change in the respective functions of those old elements, and the combination of those elements yields predictable results; absent evidence that the modifications necessary to effect the combination of elements is uniquely challenging or difficult for one of ordinary skill in the art, the claim is unpatentable as obvious under 35 U.S.C. 103(a). *Ex Parte Smith*, 83 USPQ.2d at 1518-19 (BPAI, 2007) (citing *KSR*, 127 S.Ct. at 1740, 82 USPQ2d at 1396. Accordingly, since the applicant[s] have submitted no persuasive evidence that the combination of the above elements is uniquely challenging or difficult for one of ordinary

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skill in the art, the claim is unpatentable as obvious under 35 U.S.C. 103(a) because it is no more than the predictable use of prior art elements according to their established functions resulting in the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for improvement.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maffezzoni-HD_Speed-Riedel in view of Matsumoto et al. (20020124124).

Re claim 6, Maffezzoni-HD_Speed-Riedel discloses a method as set forth in claim 5 above. Maffezzoni-HD_Speed-Riedel does not explicitly disclose wherein the communication path is established separate from a data path with the drive controller. However, Matsumoto et al. teaches of wherein the communication path is established separate from a data path with the drive controller (plurality of ports, see abstract). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the system of Matsumoto et al. having separate communication path or plurality of ports with the method of Maffezzoni-HD_Speed-Riedel in order to provide ability for variety in interaction portals. Furthermore, it would have been an obvious matter to establish communication path that is separate from a data path with the drive controller, since such a modification would have involved the mere application of a known technique to a piece of prior art. Where a claimed improvement on a device or apparatus is no more than "the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for

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improvement," the claim is unpatentable under 35 U.S.C. 103(a). Ex Parte Smith, 83 USPQ.2d 1509, 1518-19 (BPAI, 2007) (citing KSR v. Teleflex, 127 S.Ct. 1727, 1740, 82 USPQ2d 1385, 1396 (2007)). Accordingly Applicant claims a combination that only unites old elements with no change in the respective functions of those old elements, and the combination of those elements yields predictable results; absent evidence that the modifications necessary to effect the combination of elements is uniquely challenging or difficult for one of ordinary skill in the art, the claim is unpatentable as obvious under 35 U.S.C. 103(a). Ex Parte Smith, 83 USPQ.2d at 1518-19 (BPAI, 2007) (citing KSR, 127 S.Ct. at 1740, 82 USPQ2d at 1396. Accordingly, since the applicant[s] have submitted no persuasive evidence that the combination of the above elements is uniquely challenging or difficult for one of ordinary skill in the art, the claim is unpatentable as obvious under 35 U.S.C. 103(a) because it is no more than the predictable use of prior art elements according to their established functions resulting in the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for improvement.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maffezzoni-HD_Speed-Riedel in view of CD Speed 2000.

Re claim 22, Maffezzoni-HD_Speed-Riedel substantially discloses a system as set forth in claim 1 above. Maffezzoni-HD_Speed-Riedel does not explicitly disclose wherein the drive information further comprises an error rate of the data access drive. CD Speed 2000 discloses the drive information further comprises an error rate of the

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data access drive (See Page 1 which states that errors can be measure with some recorders). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Maffezzoni-HD_Speed-Riedel with the teachings of CD Speed 2000 and include the error rate of the data access drive with the motivation to provide the user with better tools to diagnose a potential data drive problem.

Response to Arguments

Applicant's arguments with respect to claims 1-10, 13 and 26 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's argument with respect to independent claims 11 and 18 are unpersuasive because they rely on the same arguments as to independent claim 1. However, the scope of independent claim 1 is different from claims 11 and 18 because claim 1 requires the execution of code at the drive controller, but claims 11 and 18 do not. It appears that the Applicant agrees with this interpretation of the claims since the Applicant has amended claim 13 and added new claim 26 to clarify the claim language of claims 11 and 18 to correspond to claim 1.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BORIS PESIN whose telephone number is (571)272-4070. The examiner can normally be reached on Monday-Friday except every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dennis Chow can be reached on (571)272-7767. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Boris Pesin/
Primary Examiner, Art Unit 2174